

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 23761 Permit 16725 License 11072

**ORDER CORRECTING OWNERSHIP, PLACE OF USE,
AUTHORIZED AMOUNT FOR WITHDRAWAL AND
AMENDING THE LICENSE**

WHEREAS:

1. License 11072 was issued to Edward H. Metcalf and was recorded with the County Recorder of Napa County on December 3, 1980 in Volume 1185, Page 234.
2. License 11072 was subsequently assigned to Ronald M. Fedrick, Kristy Fedrick, C. Richard Fedrick, and Shirley Fedrick.
3. License 11072 was subsequently assigned to Ronald M. Fedrick, Kristy Fedrick, and St. Supery Vineyards and Winery.
4. License 11072 was subsequently assigned to Ronald M. Fedrick and Kristy L. Fedrick.
5. The Napa County Assessor's records show that Ronald M. Fedrick and Kristy L. Fedrick own 13 acres of the place of use authorized under License 11072. The agent for licensees confirmed the fact.
6. The Napa County Assessor's records show that S. Supery Vineyards and Winery owns 110 acres of the place of use authorized under License 11072.
7. Information was provided by the agent for St. Supery Vineyards and Winery to the State Water Resources Control Board (SWRCB) that St. Supery Vineyards and Winery does not use water from the reservoir authorized under License 11072.
8. The SWRCB has determined that License 11072 should be corrected to reflect the above facts to show the description of the actual place of use and authorized amount for withdrawal.
9. The SWRCB has determined that the corrections do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
10. The license provision pertaining to the continuing authority of the SWRCB should be updated to conform to the current version as contained in Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The authorized amount for withdrawal under this license shall be decreased from 76 acre-feet as follows:

The maximum withdrawal in any one year shall not exceed 35 acre-feet.

2. The place of use under this license shall be corrected as follows:

Recreational and stockwatering uses at Metcalf Reservoir No. 5 within SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 30, T9N, R4W, MDB&M, and irrigation of 13 acres within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 30, T9N, R4W, MDB&M, as shown on map on file with SWRCB.

3. The SWRCB's continuing authority condition be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

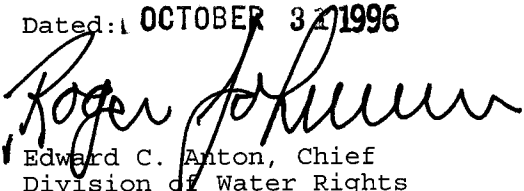
The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to:

(1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: **OCTOBER 31 1996**


Edward C. Anton, Chief
Division of Water Rights



STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 23761
PAGE 1 OF 3

PERMIT 16725

LICENSE 11072

THIS IS TO CERTIFY, That EDWARDS H. METCALF
911 SOUTH MOUNTAIN AVENUE, MONROVIA, CALIFORNIA 910

HAS made proof as of JUNE 7, 1979 (the date of inspection)
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
AN UNNAMED STREAM IN NAPA COUNTY

tributary to MAXWELL CREEK THENCE POPE CREEK THENCE LAKE BERRYESSA

for the purpose of IRRIGATION, STOCKWATERING & RECREATIONAL USES
under Permit 16725 of the Board and that the right to the use of this water has been perfected
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the
priority of this right dates from APRIL 15, 1971 and that the amount of water to which
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated
purposes and shall not exceed FORTY-NINE (49) ACRE-FEET PER ANNUM, TO BE COLLECTED FROM
NOVEMBER 1 OF EACH YEAR TO MAY 1 OF THE SUCCEEDING YEAR. THE MAXIMUM WITHDRAWAL
IN ANY ONE YEAR UNDER THIS LICENSE AND ANY LICENSE ISSUED PURSUANT TO APPLICATION
23247 SHALL NOT EXCEED 76 ACRE-FEET.

THIS LICENSE DOES NOT AUTHORIZE COLLECTION OF WATER TO STORAGE OUTSIDE OF THE
SPECIFIED SEASON TO OFFSET EVAPORATION AND SEEPAGE LOSSES OR FOR ANY OTHER PURPOSE.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

NORTH 17° EAST 6,000 FEET FROM SE CORNER OF LOCOALLOMI RANCHO, BEING WITHIN
SW1/4 OF SE1/4 OF PROJECTED SECTION 30, T9N, R4W, MDB&M.

A DESCRIPTION OF LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

RECREATIONAL AND STOCKWATERING USES AT METCALF RESERVOIR #5 WITHIN SW1/4 OF
SE1/4 OF PROJECTED SECTION 20, T9N, R4W, MDB&M, AND IRRIGATION AS FOLLOWS:

13 ACRES WITHIN NW1/4 OF SE1/4 OF PROJECTED SECTION 30, T9N, R4W, MDB&M
8 ACRES WITHIN SE1/4 OF SW1/4 PROJECTED SECTION 19, T9N, R4W, MDB&M

Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to minimizing waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

- Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.*
- Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).*
- Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.*
- Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.*
- Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*
- Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.*
- Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree*

THE QUANTITY OF WATER DIVERTED UNDER THIS LICENSE IS SUBJECT TO MODIFICATION BY THE STATE WATER RESOURCES CONTROL BOARD, IF, AFTER NOTICE TO THE LICENSEE AND AN OPPORTUNITY FOR HEARING, THE BOARD FINDS THAT SUCH MODIFICATION IS NECESSARY TO MEET WATER QUALITY OBJECTIVES IN WATER QUALITY CONTROL PLANS WHICH HAVE BEEN OR HEREAFTER MAY BE ESTABLISHED OR MODIFIED PURSUANT TO DIVISION 7 OF THE WATER CODE. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD FINDS THAT (1) ADEQUATE WASTE DISCHARGE REQUIREMENTS HAVE BEEN PRESCRIBED AND ARE IN EFFECT WITH RESPECT TO ALL WASTE DISCHARGES WHICH HAVE ANY SUBSTANTIAL EFFECT UPON WATER QUALITY IN THE AREA INVOLVED, AND (2) THE WATER QUALITY OBJECTIVES CANNOT BE ACHIEVED SOLELY THROUGH THE CONTROL OF WASTE DISCHARGES.

LICENSEE SHALL INSTALL AND MAINTAIN AN OUTLET PIPE OF ADEQUATE CAPACITY IN HIS DAM AS NEAR AS PRACTICABLE TO THE BOTTOM OF THE NATURAL STREAM CHANNEL, OR PROVIDE OTHER MEANS SATISFACTORY TO THE STATE WATER RESOURCES CONTROL BOARD, IN ORDER THAT WATER ENTERING THE RESERVOIR WHICH IS NOT AUTHORIZED FOR APPROPRIATION UNDER THIS LICENSE MAY BE RELEASED.

LICENSEE IS HEREBY PUT ON NOTICE THAT THERE MAY BE YEARS WHEN WATER COLLECTED TO STORAGE UNDER THIS LICENSE WILL NOT BE WITHIN THE RESERVATION OF WATER ESTABLISHED FOR THE WATERSHED UPSTREAM FROM LAKE BERRYESSA IN DECISION D 869. DURING SUCH YEARS, UNLESS REPLACEMENT WATER IS PROVIDED ON AN EXCHANGE BASIS, LICENSEE SHALL RELEASE WATER COLLECTED TO STORAGE UNDER THIS LICENSE DURING THE PRECEDING COLLECTION SEASON AT THE MAXIMUM PRACTICAL RATE TO FLOW INTO LAKE BERRYESSA.

